

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

VICTOR MARTINEZ,

Defendant.

USDC SDNY
DOCUMENT
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DATE FILED: 3/2/2021

1:20-cr-00213 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

The Court held a Change of Plea Hearing in this case on March 1, 2021. At the hearing, the Court accepted a plea of guilty from Defendant Victor Martinez and adjudged him guilty of the offenses described in Count Four of the Superseding Indictment [ECF No. 23], for which the maximum penalty is more than 10 years. *See* 21 U.S.C. § 841(b)(1)(B).

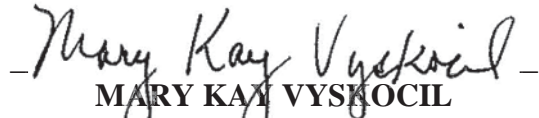
As a result, Mr. Martinez, who was released on certain conditions at presentment, now is subject to mandatory detention pending sentencing pursuant to 18 U.S.C. § 3143(a)(2). The Court has ordered that Mr. Martinez surrender to the Probation Department within two weeks of his interview with the Probation Department for the purposes of his Pre-Sentence Report. IT IS HEREBY ORDERED that Defendant and his counsel should coordinate Defendant's surrender with the designated Probation Officer for this case and shall surrender within two weeks of his interview in connection with his Pre-Sentence Report. Defendant remains subject to all of the conditions of release previously imposed.

To the extent "exceptional circumstances" are required for the delay in Defendant's surrender, the Court finds for the reasons stated on the record by Defendant's counsel at the Change of Plea Hearing that exceptional circumstances warrant a modest delay in Defendant's detention. *See United States v. McKenzie*, 450 F. Supp. 3d 449, 451 (S.D.N.Y. 2020) (noting that "exceptional circumstances" existed to allow Defendant a two-week delay in surrendering to

attend funerals and based on the Defendant's release before the plea hearing). Specifically, among other reasons, the Court credits Defendant's counsel's representations that difficulties in securing video interviews with Defendants incarcerated at the Metropolitan Correctional Center may otherwise delay the sentencing in this case. Allowing Mr. Martinez to remain released for a short period will allow him to interview with the Probation Department before his detention and eliminates risk of delay in Defendant's sentencing date. The Court also finds that this short-term release is appropriate for the same reasons that permitted Defendant's release on bail before he was adjudged guilty, notwithstanding any violations of conditions that may have occurred in the interim.

SO ORDERED.

**Date: March 2, 2021
New York, New York**


**MARY KAY VYSKOCIL
United States District Judge**